IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Bail Appl..No. 7427 of 2007(P)

CRIME NO.475/2007 OF THAMPANOOR POLICE STATION

: PETITIONERS/ACCUSED

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1. P.S.SUPAL, AGED 37 YEARS, S/O. LATE P.K.SRINIVASAN, PANAYIL HOUSE, EROOR P.O., ANCHAL, KOLLAM DISTRICT. A1

2. P.K.RAJA, AGED 43 YEARS, S/O. PAZHANIAPPAN, LENIN BHAVAN, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM. A2

3. KALADY JAYACHANDRAN @ S.JAYACHANDRAN, AGED 35 YEARS, S/O. RAMACHANDRAN NAIR, LEKHAS, TC 50/1640, KALADY, KARAMANA, THIRUVANANTHAPURAM. A3

4. RAKHI RAVIKUMAR, AGED 30 YEARS, D/O. SUBHADRA, COUNCILLOR, VAZHUTHACAUD WARD, THIRUVANANTHAPURAM CORPORATION, RESIDING AT NGO QUARTERS NO.34, OBSERVATORY LANE, MUSEUM, THIRUVANANTHAPURAM. A4

BY ADV. SRI.R.NARENDRAN NAIR
SRI.K.T.SHYAMKUMAR
SRI.HARISH R. MENON

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY DIRECTOR GENERAL OF PROSECUTIONS SRI.P.G.THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7427 of 2007

Dated this the 4th day of December 2007

O R D E R

Application for anticipatory bail. Altogether there are four petitioners. The petition in so far as the fourth petitioner is concerned is not pressed before me now, she having already been granted bail by the police, submits the learned counsel for the petitioner.

2. The petitioners 1 to 3 are accused 1 to 3 in a crime registered at the Thampanoor police station alleging offences punishable inter alia under Sections 332 and 333 I.P.C. The petitioners were allegedly members of an unlawful assembly of persons who allegedly attacked the police with stones and physically. As many as eight police constables suffered injuries in the incident, submits the learned Director General of Prosecutions.

3. The learned counsel for the petitioners submits that the petitioners are important activists of a political movement and that they were not present at the scene of the alleged attack. They have been arrayed as accused with the vexatious intent and in any view of the matter, the petitioners cannot be said to have

entertained any common object to assault the police. In these circumstances, the petitioners may be granted anticipatory bail, it is prayed.

4. The learned Director General of Prosecutions opposes the application. The learned Director General of Prosecutions submits that available indications clearly point to the complicity of all the four petitioners who are specifically named in the F.I.R registered in the crime. The learned Director General of Prosecutions submits that in any view of the matter, the discretion under Section 438 Cr.P.C does not deserve to be invoked in favour of the petitioners. Accused 5 to 19 who were arrested have already been enlarged on bail. The petitioners may also be directed to resort to the normal and ordinary course of appearing before the investigating officer or the learned Magistrate and then seek regular bail.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Director General of Prosecutions. The offences alleged is indeed grave and serious. Attack against policemen engaged in discharging their official work must be frowned upon by any civilized society. I am

satisfied, in the facts and circumstances of this case that there are no circumstances which can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C The mere fact that petitioners 1 to 3 happen to be important activists of a political movement does not at all persuade me to view the alleged crime committed by them with any leniency. They must also surrender before the investigating officer or the learned Magistrate and then seek regular bail in the ordinary course.

6. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007